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EXAMINER

BALSIS, SHAY L

ART UNIT	PAPER NUMBER
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1744

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,426

Applicant(s)

JUETT, DENNIS SCOTT

Examiner

Shay L. Balsis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "the brush body" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim. It is suggested to amend the limitation to ---he implement body---

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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Claims 1-4, 7-23, 25, 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by O'Callaghan (USPN 4783868).

With regards to claims 1 and 12, O'Callaghan teaches an implement body (10), a coupling shank (col. 3, lines 11-15) for attaching an elongated pole (11) and a fin (22). The fin is connected to the implement body such that a force generating portion of the fin is aligned along a line that is transverse to the length of the implement body (figure 1).

With regards to claims 2, 13 and 19, the force generating portion of the fin extends upwardly from the implement body generally in the same direction as the shank (figure 1).

With regards to claim 3, the force generating portion of the fin is aligned along a line that is transverse to the length of the implement body at an angle of approximately 45 degrees relative to the width of the body (col. 3, lines 1-9; the fin of O'Callaghan pivots and therefore can be positioned at multiple angles).

With regards to claim 4, the fin is mounted to the implement body (24).

With regards to claim 7, the coupling shank includes outwardly biased, retractable pins (col. 3, lines 13-14).

With regards to claims 8 and 18, the pool cleaning implement is a pool cleaning brush (12) that extends from the body along a vertical axis of the brush body.

With regards to claims 9, 16 and 21, the force generating portion of the fin is biased in a direction that is generally away from the coupling shank (the fin of O'Callaghan pivots and therefore can be positioned toward or away from the shank).

With regards to claims 10, 15 and 20, the fin is rotatably coupled (20, 21) to the implement body.

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With regards to claim 11, the force generating portion of the fin is aligned along a line that is transverse to the length of the implement body at an angle of approximately 45 degrees (col. 3, lines 1-9; the fin of O'Callaghan pivots and therefore can be positioned at multiple angles).

With regards to claims 14 and 17, the force generating portion of the fin urges the implement into contact with the submerged surface in response to movement of the implement in a direction that is generally away from the coupling shank (col. 1, lines 49-64).

With regards to claim 22, there is an accessory tool to be attached to an end of an elongated handle. The accessory functions in response to such movement to generate forces, which urge the implement into contact with the submerged surface. The accessory comprises a base element (15) having a mating surface dimensioned and concavely shaped concentric to an axis thereof for stable mating with the exterior of the handle (figure 6). The base element defining a pair of coaxially aligned holes (41) adapting the accessory to the elongated handle. There is a fin (22) connected to the base having a force generating surface, which in a direction transversely of the fin length has a desired angular relation to the mating surface axis (figure 6).

With regards to claim 23, the transverse extent of the fin is inclined relative to the mating surface axis by an angle of about 15 degrees (the fin is pivotable and therefore can be positioned at multiple angles).

With regards to claim 25, the fin is movably connected to the base element.

With regards to claim 27, the line along which the holes are aligned is parallel to the length of the fin (figure 6).

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With regards to claim 28, the base element is defined as a collar for encircling the handle (figure 6).

With regards to claim 29, the base element is defined as a saddle (figure 6).

Claims 1-4, 8-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Conrad (USPN 4733427).

With regards to claims 1 and 12, Conrad teaches an implement body (8), a coupling shank (10) for attaching an elongated pole (12) and a fin (16). The fin is connected to the implement body such that a force generating portion of the fin is aligned along a line that is transverse to the length of the implement body (figure 1).

With regards to claims 2, 13 and 19, the force generating portion of the fin extends upwardly from the implement body generally in the same direction as the shank (figure 2).

With regards to claim 3, the force generating portion of the fin is aligned along a line that is transverse to the length of the implement body at an angle of approximately 45 degrees relative to the width of the body (the fin of Conrad pivots and therefore can be positioned at multiple angles).

With regards to claim 4, the fin is mounted to the implement body (24).

With regards to claims 8 and 18, the pool cleaning implement is a pool cleaning brush (figure 1) that extends from the body along a vertical axis of the brush body.

With regards to claims 9, 16 and 21, the force generating portion of the fin is biased in a direction that is generally away from the coupling shank (figure 3, the fin of Conrad pivots and there can be positioned toward or away from the shank).

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With regards to claims 10, 15 and 20, the fin is rotatably coupled (24) to the implement body.

With regards to claim 11, the force generating portion of the fin is aligned along a line that is transverse to the length of the implement body at an angle of approximately 45 degrees (the fin of Conrad pivots and therefore can be positioned at multiple angles).

With regards to claims 14 and 17, the force generating portion of the fin urges the implement into contact with the submerged surface in response to movement of the implement in a direction that is generally away from the coupling shank (col. 2, lines 35-64).

Claims 22-24, 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Addona, Sr. (USPN 4742592).

With regards to claim 22, Addona teaches an accessory tool to be attached to an end of an elongated handle (3). The accessory functions in response to such movement to generate forces, which urge the implement into contact with the submerged surface. The accessory comprises a base element (17) having a mating surface dimensioned and concavely shaped concentric to an axis thereof for stable mating with the exterior of the handle (figure 3). The base element defining a pair of coaxially aligned holes (25) adapting the accessory to the elongated handle. There is a fin (14) connected to the base having a force generating surface, which in a direction transversely of the fin length has a desired angular relation to the mating surface axis (figure 3).

With regards to claim 23, the transverse extent of the fin is inclined relative to the mating surface axis by an angle of about 15 degrees (figure 4).

With regards to claim 24, the fin is fixedly connected to the base element.

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With regards to claim 27, the line along which the holes are aligned is parallel to the length of the fin (figure 3).

With regards to claim 28, the base element is defined as a collar for encircling the handle (figure 3).

With regards to claim 29, the base element is defined as a saddle (figure 3).

Claims 22-23, 25, 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrell, Jr. (USPN 4962558).

With regards to claim 22, Harrell teaches an accessory tool to be attached to an end of an elongated handle (12). The accessory functions in response to such movement to generate forces, which urge the implement into contact with the submerged surface. The accessory comprises a base element (20) having a mating surface dimensioned and concavely shaped concentric to an axis thereof for stable mating with the exterior of the handle (figure 3 and figure 5; elements 48, 50). The base element defining a pair of coaxially aligned holes (not labeled but shown on figure 5 close to reference number 46) adapting the accessory to the elongated handle. There is a fin (18) connected to the base having a force generating surface, which in a direction transversely of the fin length has a desired angular relation to the mating surface axis (figure 3).

With regards to claim 23, the transverse extent of the fin is inclined relative to the mating surface axis by an angle of about 15 degrees (figure 3, the fin is pivotable and therefore can be positioned at multiple angles).

With regards to claim 25, the fin is movably connected to the base element.

With regards to claim 27, the line along which the holes are aligned is parallel to the length of the fin (figure 5).

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With regards to claim 28, the base element is defined as a collar for encircling the handle (figure 3).

With regards to claim 29, the base element is defined as a saddle (figure 3).

Claims 22-23, 25, 26-27, 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Fortier (USPN 6668413).

With regards to claim 22, Fortier teaches an accessory tool to be attached to an end of an elongated handle (9). The accessory functions in response to such movement to generate forces which urge the implement into contact with the submerged surface. The accessory comprises a base element (7) having a mating surface dimensioned and concavely shaped concentric to an axis thereof for stable mating with the exterior of the handle (figure 1). The base element defining a pair of coaxially aligned holes (71) adapting the accessory to the elongated handle. There is a fin (5) connected to the base having a force generating surface which in a direction transversely of the fin length has a desired angular relation to the mating surface axis (figure 3).

With regards to claim 23, the transverse extent of the fin is inclined relative to the mating surface axis by an angle of about 15 degrees (figure 3, the fin is pivotable and therefore can be positioned at multiple angles).

With regards to claim 25, the fin is movably connected to the base element.

With regards to claim 26, the fin is connected to the base element by a spring biased connection (67; col. 4, lines 34-39).

With regards to claim 27, the line along which the holes are aligned is parallel to the length of the fin (figure 1).

With regards to claim 29, the base element is defined as a saddle (figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conrad (USPN 4733427).

Conrad teaches all the essential elements of the claimed invention as stated above however fails to teach that the fin has a mounting margin (lower portion of 24) mounted between a connecting member of the coupling shank and the implement body. Figure 1 of Conrad shows that the mounting margin is mounted to the top of the connecting member of the coupling shank rather than below. It would have been obvious to mount the fin's mounting margin below the connecting member, in between the connecting member and the implement body, so as to provide a more secure attachment of the fin. Additionally, shifting the location of the parts is a modification that has been considered to be within the level of ordinary skill in the art. *In re Japikse* 86 USPQ 70, 73.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conrad in view of Feinberg (USPN 4637087).

Conrad teaches all the essential elements of the claimed invention as stated above however fails to teach a stiffening strip mounted between the connecting member and the mounting margin. Feinberg teaches a swimming pool cleaner comprising an implement body with a fin attached. There is further a stiffening strip (26) connected to the body. It would have

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been obvious to attach a stiffening strip to Conrad's device as taught by Feinberg since the stiffening strip would act to rigidify the brush structure (col. 3, lines 19-21). Thus minimizing bending of the implement body.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



SLB
2/22/06


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PRIMARY EXAMINER